

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WELLS FARGO BANK, N.A. successor by)
Merger to Wells Fargo Bank Minnesota, N.A.)
f/k/a Norwest Bank Minnesota, N.A., as)
Trustee for First Franklin Mortgage Loan Trust)
Series 2004-FFH2 Asset Backed Certificates)
2004-FFH2,)
Plaintiff,)
vs.) Civil No. 12-cv-1248-JPG-SCW
CHERRITA HENDRICKS a/k/a CHERRITA)
C. HENDRICKS, AMERIFIRST HOME)
IMPROVEMENT FINANCE CO., TARGET)
NATIONAL BANK, TOWNSHIP OF)
CASEYVILLE, WORLWIDE ASSET)
PURCHASING II, LLC Assignee of Bank of)
America, UNITED STATES OF AMERICA,)
UNKNOWN OWNERS, and NON-RECORD)
CLAIMANTS,)
Defendants.)

MOTION TO DISMISS

The United States, by Stephen R. Wigginton, United States Attorney for the Southern District of Illinois and J. Christopher Moore, Assistant United States Attorney for the said District, respectfully move to dismiss this action against the United States pursuant to Fed R. Civ. P. Rule 12(b)(6), and states as follows:

The complaint herein names the United States as a defendant alleges that Plaintiff seeks to foreclose a “lien in favor of the United States against the land recorded August 23, 2011 as document A022763804, in the amount of \$32,102.13”

This action is governed by 28 USC § 2410, which provides in pertinent part that: “The complaint or pleading shall set forth *with particularity the nature of the interest or lien of the United States*. In actions or suits involving liens arising under the internal revenue laws, the complaint or pleading shall include the name and address of the taxpayer whose liability created the lien and, if a notice of the tax lien was filed, the identity of the internal revenue office which filed the notice, and the date and place such notice of lien was filed.” (emphasis added).

The complaint contains no such information and is deficient as a matter of law.

WHEREFORE, the United States of America respectfully request that it be dismissed as a party defendant.

Respectfully submitted this 22nd day of January 2013.

UNITED STATES OF AMERICA

STEPHEN R. WIGGINTON
United States Attorney

s/ J. Christopher Moore

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